

EXHIBIT 7

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

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6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
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10 APPLIES TO ALL CASES : NO.
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 - HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

VOLUME I

 - - -

April 17, 2019

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16 Videotaped deposition of
17 THOMAS PREVOZNIK, taken pursuant to
18 notice, was held at the law offices of
19 Williams & Connolly, 725 12th Street,
20 Washington, D.C., beginning at 9:11 a.m.,
21 on the above date, before Michelle L.
22 Gray, a Registered Professional Reporter,
23 Certified Shorthand Reporter, Certified
24 Realtime Reporter, and Notary Public.

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1 order in which the recipient of
2 the order detects through their
3 suspicious order monitoring
4 system, a reason or reasons that
5 may indicate that that order may
6 be -- that order may be diverted
7 outside the legitimate scientific,
8 medical, and industry channels.
9 That's what it is.

10 So the subjectivity would be
11 not just us looking at it. I
12 mean, we would look at it. They
13 would look at it. And that's why
14 many have gotten in trouble,
15 because they didn't look at it and
16 changed stuff. So, you know, when
17 we get -- if we go to court or
18 whatever, it's going to be up to
19 the jury and the judge to decide.

20 BY MS. MAINIGI:

21 Q. Because it's subjective,
22 right?

23 MR. FINKELSTEIN: Objection.
24 Vague.

1 THE WITNESS: Yeah, it can
2 be subjective.

3 MS. MAINIGI: Let's take a
4 break.

5 THE VIDEOGRAPHER: All
6 parties agree to go off the
7 record?

8 MR. FINKELSTEIN: Yes.
9 Thank you.

10 THE VIDEOGRAPHER: Thank
11 you. 12:24, we are off the video
12 record.

13 - - -

14 (Lunch break.)

15 - - -

16 A F T E R N O O N S E S S I O N

17 - - -

18 THE VIDEOGRAPHER: 1:32, we
19 are on the video record.

20 BY MS. MAINIGI:

21 Q. Good afternoon. Let me hand
22 you Exhibit 6 to take a look at.

23 (Document marked for
24 identification as Exhibit

1 it the CSA. The CSA does not require
2 distributors to report the suspicious
3 orders of other distributors, does it?

4 A. Correct.

5 Q. And the CSA does not require
6 distributors to share information with
7 each other about suspicious orders,
8 correct?

9 A. Correct.

10 Q. Now, similarly, the
11 regulations do not require distributors
12 to report suspicious orders of other
13 distributors, correct?

14 A. Correct.

15 Q. And the regulations do not
16 require distributors to communicate with
17 each other about suspicious orders,
18 correct?

19 A. Correct.

20 Q. In fact, the regulations
21 only apply to the suspicious orders that
22 a distributor receives from its own
23 customers, correct?

24 A. You lost me on the

1 at a number and say that's too big.

2 MR. O'CONNOR: Whoever is on
3 the phone needs to go on mute.

4 MR. FINKELSTEIN: Whoever is
5 on the phone please mute your
6 phone.

7 BY MR. O'CONNOR:

8 Q. Before we get back to my
9 question, I just want to be clear.
10 Are -- are vets required to obtain a DEA
11 registration before they order controlled
12 substances?

13 A. Yes.

14 Q. And the DEA issues some
15 veterinarians registrations to allow them
16 to purchase controlled substances?

17 A. Correct.

18 Q. Okay. I do -- I do want to
19 get back to my original question though,
20 which was, is an order that is unusually
21 large, does that order necessarily lead
22 to diversion?

23 MR. FINKELSTEIN: Objection.

24 Vague.

1 THE WITNESS: It may or
2 may -- it may or may not.

3 BY MR. O'CONNOR:

4 Q. Would the same be true of an
5 unusually frequent order?

6 MR. FINKELSTEIN: Same
7 objection. You can answer.

8 THE WITNESS: Correct. It
9 may or may not.

10 BY MR. O'CONNOR:

11 Q. And the same would be true
12 of an order that deviates substantially
13 from the normal pattern?

14 MR. FINKELSTEIN: Same
15 objection. You can answer.

16 THE WITNESS: Correct. It
17 may or may not.

18 BY MR. O'CONNOR:

19 Q. Okay. And putting that
20 together, that means that not every
21 suspicious order leads to diversion,
22 correct?

23 MR. FINKELSTEIN: Objection.
24 Scope. You can answer.

1 Q. But to my question, has the
2 DEA ever provided any kind of guidance to
3 manufacturers informing them that they
4 were to know their customers' customer?

5 A. No, not to my knowledge.

6 Q. Okay. Let's talk for a
7 minute about ARCOS.

8 Generally speaking, what
9 sorts of information does ARCOS contain?

10 A. ARCOS contains the
11 manufacturers and distributors that are
12 to report all transactions for
13 Schedule I, Schedule II, Schedule III
14 narcotics, and GHB, and manufacturers
15 also have reported -- additional
16 reporting requirements for some
17 psychotropics.

18 Q. Okay. Would ARCOS contain
19 all of the distributions of prescription
20 opioids by manufacturers to distributors?

21 A. So the transactions for
22 manufacture -- yes, manufacturer to a
23 distributor? Yes.

24 Q. Would ARCOS contain all the

1 distributions of prescription opioids
2 from distributors to pharmacies or other
3 retail outlets?

4 A. For those items, yes.

5 Q. Does ARCOS data provide any
6 details about those transactions, like
7 the amount, the recipients --

8 A. Yes, it tracks the quantity.
9 It has the DEA number of the registrant
10 that -- whether it's a sale. It could be
11 a sale, it could be a purchase. It could
12 be a disposition of, you know, getting
13 wasted. Any transaction that -- that
14 could fall within the system that --
15 that's trackable, that would be in there,
16 for those items.

17 Q. Okay. Through ARCOS, can
18 DEA see the type of medication that's
19 being purchased?

20 A. Well, it's in there by NDC
21 number.

22 Q. Okay. And the NDC number
23 would -- would allow the DEA to determine
24 which product we are talking about?

1 A. Correct.

2 Q. So whether that was a -- the
3 DEA would know whether it was a oxycodone
4 5-milligram tablet, for example?

5 A. Correct.

6 Q. That level of detail?

7 A. Yes.

8 Q. Okay. And the DEA receives
9 that information for each tablet that the
10 manufacturers sell to distributors,
11 correct?

12 A. Each tablet?

13 Q. Yes.

14 A. It's by bottle size, because
15 NDC code also has the bottle size within
16 it.

17 Q. Got it. So -- so the DEA
18 can see each and every bottle that's
19 shipped between a manufacturer and a
20 distributor?

21 A. As long as that's what they
22 are reporting, yes.

23 Q. Okay. And through ARCOS,
24 DEA can also see each and every bottle of

1 opioids that's transmitted from a
2 manufacturer -- I'm sorry. Strike that.

3 And through ARCOS, DEA can
4 see each and every bottle of opioids
5 that's transferred from a distributor to
6 a pharmacy for example, correct?

7 A. Correct.

8 Q. And they'll know the
9 location of that pharmacy?

10 A. Correct.

11 Q. Do they have the address for
12 the pharmacy?

13 A. Yes. It's linked to the DEA
14 registration.

15 Q. Okay. So through ARCOS, the
16 DEA has precise information about how
17 much of certain products is being shipped
18 to which geographic areas, correct?

19 A. Correct.

20 Could I get a clarification
21 on what time frame you're talking about?

22 Q. Sure. So I would say 1996
23 to the present. Does the answer change
24 at all during that time period?

1 to my instruction too.

2 Q. Understood.

3 Has DEA identified sources
4 of diversion based on information DEA has
5 received in suspicious order reports?

6 A. Yes.

7 Q. Okay. When DEA identifies a
8 source of diversion via information in a
9 suspicious order report, does DEA want to
10 stop the supply of opioids to that source
11 of diversion?

12 A. Yes.

13 Q. And does DEA want to stop
14 the supply of opioids to that source of
15 diversion as soon as DEA learns the
16 identity of the suspected diverter?

17 MR. FINKELSTEIN: Vague.

18 THE WITNESS: Yes.

19 BY MR. STEPHENS:

20 Q. All right. Between 2007 and
21 2018, DEA received over 1.2 million
22 electronic suspicious order reports from
23 registrants.

24 A. Is that a -- it sounds like

1 it was a statement. I'm sorry.

2 Q. It's a question. Is that
3 true?

4 A. Could you -- could you
5 repeat the question.

6 Q. Sure.

7 Between 2007 and 2018 DEA
8 received over 1.2 million electronic
9 suspicious order reports from
10 registrants, true?

11 A. Yes.

12 Q. Let me -- if I could point
13 you back to Exhibit 17, which is the
14 transcript from March -- or the senate
15 congressional record from March 20, 2018.

16 Do you have that in front of
17 you?

18 A. Yes.

19 Q. I direct you to Page 93,
20 Mr. Prevoznik.

21 A. Okay.

22 Q. And this is a Q&A, written
23 Q&A between Congress and DEA, right?

24 A. That's what it looks like.

1 analyzes those SORs -- analyzed SORs
2 between 2006 and 2015.

3 Is it fair to say that DEA's
4 current leadership has been working hard
5 to improve how DEA reviews suspicious
6 order reports?

7 A. Yes.

8 Q. Between 2006 and 2015 under
9 Mr. Rannazzisi's leadership, did DEA have
10 a published policy that ensured that
11 someone at DEA would investigate every
12 suspicious order report that DEA
13 received?

14 MS. SINGER: Objection.
15 Lack of foundation.

16 THE WITNESS: Not that I'm
17 aware of.

18 BY MR. STEPHENS:

19 Q. Okay. Was there any policy
20 at DEA that would have prevented
21 Mr. Rannazzisi, who ran the diversion
22 control group, from instituting a
23 practice or policy that ensured that
24 someone from DEA would investigate every

1 to show cause, and perhaps they
2 got suspended. There was some
3 administrative action because they
4 did not report them.

5 BY MR. STEPHENS:

6 Q. All right. But my point,
7 Mr. Prevoznik, is simply that the 254
8 immediate suspension orders that are
9 listed here between 2007 and 2017, not
10 every one of them was the result of DEA
11 following up on a suspicious order report
12 that had been sent to DEA; is that fair?

13 MR. FINKELSTEIN: Are you
14 representing to the witness that
15 these numbers add up to 254?

16 MR. STEPHENS: Yes.

17 BY MR. STEPHENS:

18 Q. I will represent to you that
19 for the immediate suspension orders, the
20 totals from 2007 to 2017, is 254. I will
21 represent to you that the order to show
22 cause filed from 2007 to 2017 is 638.
23 And I'll also represent to you that the
24 total column from 2007 to 2017 is 9,851.

1 Okay?

2 A. Okay.

3 MR. FINKELSTEIN: Counsel is
4 telling you that.

5 THE WITNESS: Okay.

6 MR. FINKELSTEIN: We haven't
7 checked his math.

8 MR. STEPHENS: You're
9 welcome to do so.

10 BY MR. STEPHENS:

11 Q. So my question,
12 Mr. Prevoznik, was, would you agree with
13 me that the 254 suspension orders that
14 are listed here from 2007 to 2017, not
15 every one of them was generated as the
16 result of DEA following up on an
17 investigation of a SOR report the DEA had
18 received; is that fair?

19 MR. FINKELSTEIN: Asked and
20 answered.

21 THE WITNESS: Yes.

22 BY MR. STEPHENS:

23 Q. Okay. For today's purposes,
24 let's assume that every one of these 254

1 was generated by the -- were all the
2 result of DEA receiving and investigating
3 a suspicious order report. All right.
4 I'll give you the benefit of that, okay?

5 A. Okay.

6 Q. If you take 254 against the
7 one point -- against the 1,204,400 SORs
8 reports the DEA received, that would
9 equate to something along the lines of
10 2/100 of 1 percent. Do you agree with
11 that?

12 A. I didn't do the math, but
13 I'll go with -- I'll go with you.

14 Q. Okay. So would you agree
15 the DEA would have obtained less than
16 1 percent of immediate suspension orders
17 off the 1.2 million suspicious order
18 reports that DEA received?

19 MR. FARRELL: Objection.

20 Foundation. And I think you just
21 bait and switched here a little
22 bit.

23 MR. STEPHENS: I didn't mean
24 to. So let me check my question.

1 BY MR. STEPHENS:

2 Q. So my question is this:

3 Assuming that all 254 of the immediate
4 suspension orders that DEA received from
5 2007 to 2017 were based off of suspicious
6 order reports, and DEA received
7 1.2 million suspicious order reports, you
8 would agree with me that the percentage
9 of suspicious order reports that DEA
10 converted into immediate suspension
11 orders was less than 1 percent?

12 MR. FINKELSTEIN:

13 Foundation. Misstates prior
14 testimony.

15 THE WITNESS: Well, I mean,
16 I think that's a unique way to
17 look at it. You can also do the
18 flip side and say how many weren't
19 reported that we had cases on.
20 And to just limit it to the ISOs
21 doesn't take you to putting people
22 in compliance, whether through
23 letters of admonition or MOAs that
24 we've come to with companies

1 regarding that.

2 I mean, it's a hypothetical.

3 BY MR. STEPHENS:

4 Q. Between 2007 and 2017, the
5 percentage of suspicious order reports
6 the DEA received and converted into
7 immediate suspension orders is less than
8 1 percent, true?

9 A. Yes. In your hypothetical,
10 true.

11 Q. All right. So between 2007
12 and 2017, the percentage of suspicious
13 order reports that DEA converted into
14 orders to show cause, the 638 here,
15 that's also less than 1 percent. It is
16 .005 or 5/100 of 1 percent?

17 MR. FARRELL: Objection.
18 Foundation.

19 MR. FINKELSTEIN:
20 Foundation. Misstates prior
21 testimony.

22 THE WITNESS: It's a
23 hypothetical. I'll go with you.

24

1 BY MR. STEPHENS:

2 Q. Okay. Between 2007 and
3 2017, if you include everything in the
4 table, orders to show cause, immediate
5 suspension orders filed, voluntary
6 surrenders, the 9,851 totaled from 2007
7 and 2017, the percentage of those against
8 the 1.2 million of suspicious order
9 reports would result in a conversion rate
10 of less than 1 percent?

11 MR. FARRELL: Objection.

12 Fuzzy math.

13 MR. FINKELSTEIN: Which rule
14 is that?

15 Foundation. Misstates prior
16 testimony.

17 You can answer if you
18 understand.

19 BY MR. STEPHENS:

20 Q. Let me ask you a more
21 precise question.

22 A. All right.

23 Q. Okay. What I want you to
24 do, is I'm going to ask about the 9,851,

1 the full total, okay. Are you with me?

2 A. I'm with you.

3 Q. Okay. So between 2007 and
4 2017, if you include the voluntary
5 surrenders, immediate suspension orders,
6 the order to show causes, the percentage
7 of suspicious order reports that DEA
8 converted of the suspicious order reports
9 is less than 1 percent?

10 MR. FINKELSTEIN:

11 Foundation. Misstates prior
12 testimony.

13 THE WITNESS: In your
14 hypothetical situation, yes.

15 BY MR. STEPHENS:

16 Q. Okay. Do you know what
17 percentage of suspicious order reports
18 DEA converted into criminal indictments
19 between 2007 and 2017?

20 MR. FINKELSTEIN: Vague.

21 THE WITNESS: I do not.

22 BY MR. STEPHENS:

23 Q. Do you know -- okay. So
24 between 2007 and 2017, would you know